

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE:

TAMALA LYNN PLOTT,

Debtor.

CASE NO.: 19-31212-KKS
CHAPTER: 7

TAMALA LYNN PLOTT,

Plaintiff,
v.

ADV. NO.: 20-03005-KKS

NATIONSTAR MORTGAGE, et. al.

Defendants.

ORDER DENYING *NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER'S MOTION TO DISMISS COMPLAINT* (Doc. 6).

THIS CASE is before the Court on *Nationstar Mortgage LLC d/b/a Mr. Cooper's Motion to Dismiss Complaint* ("Motion," Doc. 6), currently scheduled for hearing on June 2, 2020. After a review of the Motion and the pleadings, the Court finds that the Motion is due to be denied, without prejudice, and the hearing canceled.

Plaintiff filed her original Complaint on February 20, 2020 (Doc. 1) and filed an Amended Complaint (Doc. 13) concurrent with her objection to the Motion (Doc. 14) on March 24, 2020.

Federal Rules of Civil Procedure 15(a)(1) made applicable by Federal Rules of Bankruptcy Procedure 7015 provides in relevant part:

A party may amend its pleading once as a matter of course within:

- (A) 21 days after serving it, or
- (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.¹

Federal Rules of Civil Procedure 7 incorporated by reference in Federal Rules of Bankruptcy Procedure 7007 lists “pleadings” as the complaint, answer, reply, answer to a counter and cross-claim, third-party complaint and third-party answer.² Motions are not listed as “pleadings” under Rule 7007(a); rather, they are listed separately under Rule 7007(b). Motions to dismiss are not considered responsive pleadings under Fed. R. Bankr. P. 7007, nor for purposes of Fed. R. Bankr. P. 7015, so amendments to a complaint may be made as of right notwithstanding

¹ Fed. R. Bankr. P. 7015.

² Fed. R. Bankr. P. 7007.

such motions.³ Because Plaintiff filed the Amended Complaint within twenty (21) days of service of the Motion, it is,

ORDERED:

1. *Nationstar Mortgage LLC d/b/a Mr. Cooper's Motion to Dismiss Complaint* (Doc. 6) is DENIED, without prejudice.
2. Plaintiff's Amended Complaint (Doc. 13) is deemed timely filed.
3. Defendant, Nationstar Mortgage d/b/a Mr. Cooper LLC has fourteen (14) days from the date of this Order to file a response to the Amended Complaint (Doc. 13).
4. The hearing on the Motion currently scheduled for June 2, 2020 is CANCELED.

DONE AND ORDERED on May 14, 2020.



KAREN K. SPECIE
Chief U. S. Bankruptcy Judge

cc: All parties in interest

Defendant's attorney is directed to serve a copy of this Order on interested parties and to file Proof of Service within three (3) days of entry of this Order.

³ 10 Collier on Bankruptcy P 7015.04 (16th 2020).